
Appeal Decision

Site visit made on 11 November 2020

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 17th November 2020

Appeal Ref: APP/B1550/Y/20/3247075

Punch Bowl Inn, Church End, Paglesham SS4 2DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (TCPA) against a refusal to grant planning permission.
 - The appeal is made by Mrs Sian Payne against the decision of Rochford District Council.
 - The application Ref 18/00599/FUL, dated 22 June 2018, was refused by notice dated 21 August 2019.
 - The development proposed is change of use from mixed use as a public house and residential use to C3 residential use and retention of fence and gates.
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Preliminary matter

1. The Council's Notice publishing details of the application indicates that it was made under the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA). The appeal form used was that intended for an appeal against refusal of listed building consent under the LBCA. However, no application for listed building consent was made. The application was considered under the TCPA and the refusal notice was issued under the TCPA. As the appeal was dated more than 12 weeks after the date of the refusal notice (but within 6 months), there is some doubt that the appeal was correctly made. However it was accepted and I do not explore the procedural anomaly in this decision. As set out above, I have considered it under the TCPA on its merits.

Decision

2. The appeal is dismissed.

Main Issues

3. The fence and gates have been erected. When considering whether to grant planning permission, sections 66 and 72 of the Listed Buildings and Conservation Areas Act 1990, place a duty on the decision maker to pay special attention to the desirability of preserving the character or appearance of the conservation area and preserving the building or any features of special architectural or historic interest which it possesses. The main issues are therefore as follows:
 - Whether the loss of the public house use would unacceptably compromise the provision of rural employment, community and tourism facilities in the area;
 - Whether the proposed change of use would preserve or enhance the character or appearance of the Paglesham Church End Conservation Area (CA);

- The effect of the proposed change of use on the architectural character and historic interest of the Inn, which is listed Grade II; and
- The effect of the installed fence on the setting of the listed building.

Reasons

Background

4. Paglesham is a rather spread-out settlement between the Rivers Crouch and Roach in eastern Essex. Paglesham Church End includes St Peter's parish church and consists of a hamlet of around 20 dwellings and a large farmstead about 1.2 kilometres along a lane off Paglesham Road. Paglesham East End is somewhat larger and lies about 2 kilometres (km) away at the end of Paglesham Road.
5. The Punch Bowl was purchased by the appellant and her husband in September 2016 with the intention of continuing the business which they were advised by the previous owners had been operating profitably. It ceased trading just over a year later on 1 January 2018 and the ground floor has been used as domestic accommodation since then. The bar and associated fixtures remained in place at the time of the site visit.

Policy

6. The development plan for the area includes the Rochford District Council Core Strategy adopted in 2011 (CS) and the Development Management Framework of December 2014 (DMF). The only policy referred to in the reasons for refusal relates to the fence. DMF policy DM1 is a generic policy requiring a high standard of design that promotes the character of the locality and requires that the design of proposed development addresses the impact on the historic environment, amongst other things.
7. The officer's report refers to the 2017 Economic Growth Strategy, which commits the Council to supporting business growth and investment and to be pro-active in resisting residential conversions of commercial space wherever possible. I have no information on the status of this document and give it limited weight.
8. The National Planning Policy Framework of 2019 (NPPF) indicates that significant weight should be placed on the need to support economic growth and productivity. In particular, it supports the sustainable growth and expansion of all types of business in rural areas and the retention and development of accessible local services and community facilities, such as public houses amongst other things (paragraph 83).
9. Moreover, in the section 'Promoting Healthy and Safe Communities', paragraph 92 advises that to provide the social, recreational and cultural facilities and services the community needs, planning policies should plan positively for the provision and use of community facilities such as public houses and other local services to enhance the sustainability of communities and residential environments.
10. The *Paglesham Church End Conservation Area Appraisal and Management Plan* of 2007 (CAAMP) provides helpful advice and guidance on the heritage assets in Church End. Whilst now of some age, this supplementary planning guidance

remains relevant. Policy CP2 of the CS advises that regard will be had to CAAMPs in considering any development proposal. However the advice has to be seen in the light of subsequent national guidance on heritage significance in the NPPF and updated advice from Historic England. Policies DM8 and DM23 provided by the Council relate to demolition and redevelopment in conservation areas and are of limited relevance.

The site and surroundings

11. The Punch Bowl Inn is a 2 and 3 storey brick and weatherboarded building, originally built in the late 18th century, probably as a sailmakers. It was in use as a public house from the mid-1800s until January 2018. It is distinctive and immediately visible on entering the hamlet of Paglesham Church End. The upper 2 floors are in residential use connected with the public house function. The appeal relates to the ground floor of the building which is laid out as a public bar and seating area with facilities for dining together with ancillary rooms for cooking and cellarge.
12. The pub terminates a terrace of pleasantly proportioned brick and weatherboarded cottages which face south across fields together with a smaller terrace of older cottages further along including the former post office, and further small scale dwellings. The church tower can be seen behind these dwellings on entering the village and all are included in the CA. The character of the CA is largely defined by the architectural and historic interest of the row of dwellings 'bookended' by the pub and the church.

Rural employment, community and tourism facilities

13. The pub is modest in size at around 170 square metres, consisting of a lounge bar and a dining area. The kitchen and rear storage and cellarge rooms are in poor condition and in need of investment. It was evident that the appellant had carried out some improvements, notably the restoration of a brick chimney on the end elevation.
14. The Punch Bowl would be unlikely to be able to rely on the residents of Church End and the immediate locality to trade successfully because of its very limited population. Unlit roads with no footways mean that it is not within easy walking distance of any other settlements. Because of its limited floor area, it is likely that it would need to trade heavily at weekends and in the summer months, using outdoor tables to increase the number of covers. The appellant's evidence is that the numbers have not been forthcoming and the true costs of trading as a commercial establishment, including increased business rates and taking on the previous staff, exceeded income in the first full year of ownership, despite marketing efforts.
15. The appellant also draws attention to other public houses within 2-4 km. Notably, the Plough and Sail at Paglesham East End, where the majority of the local population resides, is where all local functions have traditionally been held. The Shepherd and Dog at Ballards Gore is a recently modernised larger establishment lying on the only road approaching Paglesham and it would attract customers. The Anchor at Canewdon would attract customers approaching from Ashingdon and Hockley to the west. I noted that the Royal Oak at Stambridge would also attract customers from Southend. I have no details of the level of trading experienced at these establishments.

16. However, importantly, no trading accounts have been made available to show the profitability of the pub before the appellant took it over or to indicate the extent of the financial losses in the first year of operation. The Council officers' report refers to large expenditure on repairs and maintenance but no details have been provided by the appellant. Apart from the chimney previously mentioned, it is unclear that this expenditure enhanced the public facilities. No evidence of the leaflets and advertising undertaken to promote the pub has been provided. The advice in the Procedural Guide to Planning Appeals says at paragraph J.2.3 that is the appellant's responsibility to ensure that, at the time they make their appeal, amongst other things, they are able to provide full details of relevant facts and full disclosure of the details of their case and the arguments being put forward, and must include all available evidence and documents, in responding to the reasons for refusal. There simply is no firm evidence to back up the assertion in the appellant's statement of case that the pub was unable to continue to trade. Nor is there any evidence that the number of pubs in the area is too high for the customer base. The area is within easy driving distance of major centres of population including Southend.
17. The pub lies in an attractive area of flat arable land near saltmarsh estuarine wildlife reserves that would attract birdwatchers and walkers. The Roach Valley Way passes through the village. The Essex Coast Path passes along the Crouch estuary and links with local footpaths to the village. I saw that the area is popular with cyclists. These are significant factors that suggest that there is a substantial tourist market for the pub to exploit. There is no evidence to refute the Council's opinion that there is a scarcity of catering facilities in this part of the District and that those which do exist should be retained. Even if figures were available, I consider that a single year's trading, immediately after taking on the premises, is not a reliable indicator of future success, especially given the need for investment in the facilities some time to bear fruit.
18. The appellant's case falls short of justification for change of use and permanent closure of an establishment which has clearly received substantial support in the past and had it still been in operation, would still enjoy very significant support now. The evidence indicates that the alternatives for local residents are difficult to reach and that there is substantial latent local demand and significant potential demand from tourists and others in the area who desire to eat out.
19. Marketing of the building initially took place on the basis of wholly residential use, which would not have properly drawn interest in the public house operation. Marketing as a commercial enterprise only commenced on 31 January 2020, when it had not been a going concern for some time. The potential of the enterprise would not have been obvious due to lack of use and the winter season. The marketing then coincided with the coronavirus pandemic which has had a dramatic effect on public houses and restaurants nationally. The final impact of the virus is currently hard to predict, but Government support for businesses such as pubs has been made available. The expectation is that there will eventually be a return to normality. Even without the effect of the virus, insufficient time has passed (less than 12 months) to show conclusively that there is still no market for the Punch Bowl as a going concern. Current circumstances would seem to indicate that a much longer period of marketing would be appropriate before drawing firm conclusions.

20. The Council draws attention to the CAMRA (Campaign for Real Ale) Public House Viability Test. I accept that the Punch Bowl would fail some of the tests set out, including the number of adults in the catchment area, use as a focal point for local activities and the availability of public transport. On the other hand the business clearly had support within the local population and from further afield. It is in an attractive location and has a large car park. There is no evidence to show that any effort has been made to explore the potential to provide accommodation as well as food and drink. These are only a few of the options put forward.
21. There are no policies in the CS or the DMF that seek to protect A4 uses or public houses, but national guidance in the NPPF is firmly in favour of retaining community facilities including public houses. I conclude that no persuasive evidence has been provided to show that the Punch Bowl cannot continue as a profitable enterprise that would provide a community and tourism facility and local employment. Permanent closure would be in conflict with the advice in the NPPF.

Heritage aspects

22. The long-standing use of the building as a public house is undisputed. Advice from Historic England is that the use for which a building is constructed is usually considered to be its optimum viable use. Whilst that is thought to have been for sailmaking, its use as a public house is long-standing and the accommodation has been adapted for that purpose. The building is visually prominent in the CA with a generous open space to the side, normally used as a car park, which enhances appreciation of its context. The building is not redundant, as at the current time, the upper floors are used as bedrooms and the lower bar area is being used as living accommodation. However this use does not reflect its previous significance in the CA as a public house. Its historic character, form and function as a pub make an important contribution to the heritage significance of the CA as a whole. Even though the signs which advertised its presence and purpose have been removed, the building's character is unlike the other cottages in the settlement and is not that of a purely residential property. I conclude that the permanent loss of the public house use would not preserve or enhance the character or appearance of the CA and would diminish the architectural and historic character of the building.

The setting of the listed building

23. The installed fence consists of 7 feet (approximately 2.15 metres) high close-boarded timber panels between pre-cast concrete posts with pre-cast gravel boards, dividing the car park. A wide double gate has been installed. A similar 4 feet high fence runs down the side boundary. The line of the fence allows parking for the appellant's vehicles in front with the majority of the car park behind being used for storage of building materials. The storage use is evidence seen from the front, with various items appearing above the top of the fence.
24. The fence is a significant and unsightly modern intrusion within the curtilage of the listed building. It appears solid and incongruous seen alongside and adjoining the weatherboarded public house. It prevents the listed building being seen in its original form surrounded by open space. It detracts from the setting of the building at a prominent position on entering the settlement and fails to preserve or enhance the character or appearance of this part of the CA.

25. It is understood that a burglary and the potential for theft of valuable materials led to the installation of the barrier but there are other means of providing security that would not detract from the character of the area or the setting of the pub to the same extent. The CAAMP advises that picket fences, post and rail fences and hedging are all appropriate for the rural context of the conservation area, but the installed fence bears all the characteristics of an urban and strongly defensive structure. It prevents any kind of view through to the trees and vegetation that previously contributed to the setting of the pub and its surrounds.
26. Whilst the side fence is much less obvious and its appearance could be mitigated with planting, its form and structure is still out of character.
27. The use of the car park area for a purpose visually and obviously not associated with the public house further detracts from its setting and hence heritage significance. I conclude on this issue that the fence conflicts with the heritage protection aims of DMF policy DM1 and the NPPF.

Conclusion

28. I do not doubt the commitment and sacrifice of the appellant and her family in taking on the enterprise with the best of intentions which did not turn out to be the investment opportunity they anticipated. The need to use income from another business to help subsidise the public house is understood. However the information provided falls far short of what is necessary to show that the pub had not and could not be operated profitably on its own, or to show that it had operated at a loss despite investment in the facilities and marketing. The closure in 2018 so shortly after being acquired, without any explanation, reinforces the case against change of use, which would be permanent.
29. The NPPF advises that heritage assets are an irreplaceable resource and that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 185 notes the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. No persuasive justification has been provided for the harm to the CA and the listed building that would be caused by way of the change of use of the public house and due to the installation of the fence. There are no public benefits against which to balance the permanent harm that would be and is caused.
30. For all the above reasons, the appeal should fail.

Paul Jackson

INSPECTOR